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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.            | CONFIRMATION NO.       |
|---|-------------|------------------------|--------------------------------|------------------------|
| 10/743,750  | 12/24/2003  | Dragomir (Doug) Smoljo | 71066/00003                    | 8937                   |
| 27871 7590 05/24/2007<br>BLAKE, CASSELS & GRAYDON LLP<br>BOX 25, COMMERCE COURT WEST<br>199 BAY STREET, SUITE 2800<br>TORONTO, ON M5L 1A9<br>CANADA |             |                        | EXAMINER<br>CHIN SHUE, ALVIN C |                        |
|   |             |                        | ART UNIT<br>3634               | PAPER NUMBER           |
|   |             |                        | MAIL DATE<br>05/24/2007        | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                |   |  |
|------------------------------|--------------------------------|---|--|
| <b>Office Action Summary</b> | Application No.<br>10/743,750  | Applicant(s)<br>SMOLJO, DRAGOMIR (DOUG) |  |
|                              | Examiner<br>Alvin C. Chin-Shue | Art Unit<br>3634                        |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10,15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over German pat. '766 to Meier et al. in view of Rushford or Brooks. Meier shows the claimed system with the exception of his members 12 being modular and connected to each other in an aligned manner. Rushford shows a plurality of slotted members 4 connected together in an aligned manner by a connecting member 10 to enable his slots to be aligned for securing an enclosure therein. Brooks shows a plurality of slotted members 21,22 connected together in an aligned manner by a connecting member to enable his slots to be aligned for securing an enclosure therein. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Meier for his members 12 to be modular and connected together in an aligned manner, as taught by either Rushford or Brooks, to enable a modular structure when connected comprise aligned slots for securing his enclosure means therein. The examiner takes official notice that the clamp jaw 4 (bracket), as set forth in claim 7, conventional comprises a notch for receiving his fastener, and to provide a notch therein would

have been obvious to one of ordinary skill in the art at the time the invention was made in view of the conventional teachings.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Saulters. Saulters shows a linking member B. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure means of Meier to comprise a linking member, as taught by Saulters, for joining sections of his tarp.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Mydans. Mydans shows a tarp with elastic portions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Meier with a tarp, as taught by Mydans, to facilitate a stretched fit of his tarp.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Saulters. Saulters shows a linking member B. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the enclosure means of Meier to comprise a linking member, as taught by Saulters, for joining sections of his tarp.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Adolfson et al. Adolfson shows an insulated tarp. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Meier with a tarp, as taught by Adolfson, to insulate his system.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of either Dotson or Muir et al. Dotson and Muir show telescoping portions for adjusting distance. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the spacing portion 1 of Meier to be telescopic, as taught by either Dotson or Muir, to enable adjustment of the spacing between his frame and the stackable section members.

Applicant's arguments filed 6/9/06 have been fully considered but they are not persuasive. Applicant's arguments that neither Rushford or Brooks teach radially aligned members about a longitudinal axis are not persuasive, as the argument should be with respect to the system of Meier as modified in view of the teachings of either Rushford or Brooks.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alvin C. Chin-Shue  
Examiner  
Art Unit 3634

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